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*SPECIALISTS IN ENVIRONMENTAL MANAGEMENT AND RESEARCH*

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### **MEMORANDUM**

To: Mike Merwick, City of Lincoln  
Nicole Fleck-Tooze, City of Lincoln  
Ben Higgins, City of Lincoln  
Gary Lacy, City of Lincoln  
Lana Tolbert, City of Lincoln  
J.B. Dixon, LPSNRD  
Ed Ubben, LPSNRD  
Erosion & Sediment Control Work Group

Cc: Scott Schulte, Patti Banks Associates

From: Rock Krzycki and Ted Hartsig

Date: July 20, 2006

Re: Meeting No. 1 Summary, Erosion and Sediment Control Work Group

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### **INTRODUCTION**

The City of Lincoln, Nebraska (City) and Applied Ecological Services (AES) are providing the following summary of Erosion and Sediment Control (E&SC) Work Group Meeting No. 1. The meeting was held on July 11, 2006, at the Lower Platte South Natural Resources District (LPSNRD) office. The City will prepare detailed meeting minutes; this memorandum summarizes the general discussions and conclusions.

The City welcomed everyone to the meeting and City staff, consultant team representative, and the Work Group members introduced themselves.

The Work Group then discussed building community and City/NRD requirements for an E&SC program. The Homebuilders Association of Lincoln (HBAL) wanted to ensure that the City does not have a pre-conceived plan, which it does not. The program should also:

- Be simple
- Be equitable
- Include all parties, such as subcontractors
- Take a common sense approach, with no “outrageous” penalties
- Begin with developers for the entire project site
- Include a point of transfer, lot should be stabilized
- Task the developer to use its resources and equipment to manage issues like mud in the street
- Include an education component

- Clarify all legal requirements
- Meet all federal and state requirements
- Be streamlined
- Not penalize the “good guys”
- Require more input from engineers
- Focus on a single point of contact
- Be good for the local environment
- Be administratively practical to run
- Ultimately be a program that everyone can live with

The Work Group then reviewed the overall requirements. Federal requirements for the E&SC program were obtained from EPA Fact sheets and work sheets. Discussion points included:

- The necessity of program, sanctions, other cities information regarding compliance, and general options
- EPA regulations are intentionally vague
- There is room for customization of program
- Keep ordinances short and to the point
- Adopt ordinances that are easy to find and follow
- Current ordinances need updating and clarification
- Lincoln’s current program is reactive, not proactive
- Need (federal government requires) sanctions for compliance
- Need procedures for enforcement and inspections

## **SMALL GROUP BREAKOUTS**

The meeting then broke into discussion groups. Groups discussed 2 of the 6 federal requirements. Each group had City staff available to offer assistance with regulatory requirements.

Input we received from the Work Groups regarding the six federal requirements for an E&SC small sites program included the following.

1. Have an ordinance or other regulatory mechanism requiring the implementation of proper erosion and sediment controls, and controls for other wastes, on applicable construction sites.
  - Consolidate ordinances to one title
  - Update existing codes related to compliance issues
  - Need definitions for > 1 acre and < 1 acre
  - Address liability and when responsibility transfers for individual lots
  - Who is responsible for mitigating discharges?
  - Establish standards
  - Review permit requirements – when can a permit be closed out (at 90 percent site stabilization)?
  - Establish minimum requirements
  - Require qualified persons – training (see No. 3)

- Individual site plans are required to indicate placement of control measures
2. Have procedures for site plan review of construction plans that consider potential water quality impacts.
    - Developers would like to roll this onto the overall E&SC plan
    - Small site plan authorized by developer
      - Incorporated into SWPPP
      - Enforced through purchase contract
    - Need plan guidelines and checklist; non-authorized if not filled out correctly
    - Establish a point of transfer of responsibility for measures at issuance of building permit; authorized small site plan to be included with plan submittal
  3. Have procedures for site inspection and enforcement of control measures.
    - Provide education for site inspectors
    - Provide education for site operators
    - Private sector (developer) wishes to enforce small sites
    - Cost a concern
    - Site plan will be dynamic
  4. Have sanctions to ensure compliance (established in the ordinance or other regulatory mechanism).
    - Should not be levied against entire development
    - Covenant enforcement is difficult; look into purchase contract language
    - Possibility of escrow account
      - How to set and define?
    - Stop Work Order
    - City enforcement options?
  5. Establish procedures for the receipt and consideration of information submitted by the public.
    - Erosion Hotline
      - Developer would need to post contact information for complaints and track complaints.
      - City already had complaint hotline in place.
    - Current City system includes too many different people and departments
      - Tracking should be a joint effort between Building and Safety and Watershed Management
    - Have process to review complaints, track weak spots in reporting and follow up
    - Possible placement of who to contact signs if problem occur
  6. Determine the appropriate best management practices (BMPs) and measurable goals for this minimum control measure.
    - Cost is a main concern
    - Common sense approach
    - No definite measures agreed upon

## ADDITIONAL DISCUSSION

The Work Group members discussed the following additional items.

- The City will work with HBAL and developers to provide E&SC requirements language for purchase contract.
- An additional question was regarding smaller sites not part of a larger common.... or sale – the transition should be seamless.
- A person building on a lot that is part of a larger common.... or sale, must know that they are required to comply with this process. New development and redeveloped land issues need to be clear.
- Clear definitions are needed in ordinances; acronyms spelled out; transfer process defined; responsible parties identified; standards stated.
- The Work Group decided on another small sites enforcement option (“Option No. 3”) to be called the Draft Program, which will be a combination of the previously discussed Option Nos. 1 and 2 or some variant thereof.
- Reiterated that the discussion today was regarding small sites that are part of a larger common plan of development or sale. Also, if a plot of land in area that is already developed and is less than 1 acre, that is a different set of circumstances and most enforcement of these sites would be driven by a complaint basis.
- Presently there is not a formal process for permitting the small sites, but it is coming.
- Consolidation of codes is needed; existing ordinances will not be removed from the titles they are currently under, and some duplication will exist. New section of code will be specifically for E&SC.
- If persons build several houses in a row, and it’s over one acre, the E&SC rules kick in.
- The timeline to bring ordinances forward is before the end of the calendar year.
- For Meeting No. 2 in August, City staff and consultants will produce an outline and alternatives that the Work Group can respond to.
- The City will provide an outline of the Draft Program, definitions, and ordinance language from other communities by August 1st.
- Option No. 3 will be referred to as the Draft Program from now on. The plan is to keep the government regulatory side as minimized as possible. The developer and builder should be the first line of response. The Draft Program will include a combination of Option Nos. 1 and 2.
- The developer has resources to do a lot of the clean up and can defray cost between builders. The process should not scare builders away. The developer and its engineer should be the one-stop-shop for the builder to help get compliance for an entire site.
- The builder may be less likely to buy lots if they have to accept E&SC responsibilities at the time of sale.
- Builders are ultimately responsible for educating their subcontractors on what is required, with the developer overseeing the builders.